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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 LEROY A. ANDREOZZI,

11 Plaintiff,

No. CIV S-02-0796 GEB CMK P

12 vs.

13 GRAY DAVIS, et al.,

14 Defendants.

15 \_\_\_\_\_ / ORDER

16 Plaintiff is a state prisoner proceeding without counsel in this civil rights action.  
17 On April 18, 2006, the court granted defendants' motion to dismiss this action on the grounds that  
18 this action is moot. On April 21, 2006, plaintiff filed a second amended complaint. On May 5,  
19 2006, plaintiff filed a request for a certificate of appealability to appeal the April 18, 2006 order.

20 As this case is closed, plaintiff's second amended complaint (doc. 119) shall be  
21 placed in the file and disregarded. As this action is a 42 U.S.C. § 1983 action, plaintiff does not  
22 need a certificate of appealability prior to being able to appeal this decision. Accordingly, his  
23 request for a certificate of appealability is denied as moot.

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1 IT IS ORDERED THAT:

2 1. The Clerk of the Court shall place plaintiff's April 21, 2006 second amended  
3 complaint (doc. 119) in the file and it shall be disregarded; and

4 2. Plaintiff's May 5, 2006 request for a certificate of appealability (doc. 122) is  
5 denied as moot.

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7 DATED: May 15, 2006.

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10 **CRAIG M. KELLISON**  
11 UNITED STATES MAGISTRATE JUDGE  
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